

Message Text

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ORIGIN SCSE-00

INFO OCT-01 EA-09 ISO-00 JUSE-00 L-03 /013 R

DRAFTED BY SCA;SCS;RBOYLAN:JS
APPROVED BY SCA;SCS;AFFOWLER
DESIRED DISTRIBUTION
DEPARTMENT OF JUSTICE, MR. RISTAU, RM. 3613
-----232109Z 111426 /61

O 232046Z DEC 76
FM SECSTATE WASHDC
TO AMEMBASSY SEOUL IMMEDIATE

UNCLAS STATE 310254

E.O. 11652:N/A

TAGS: CGEN

SUBJECT: YOUNG SOOL SHIN: CASE NO. 75 KO DAN 6332, SEOUL

DISTRICT CRIMINAL CT.,

REF: (A) SEOUL 8816 (B) STATE 265132 (C) SEOUL 8882

1. DEPT GRATEFUL FOR POST'S PREVIOUS ASSISTANCE IN SUBJECT
CASE.

2. DEPT URGENTLY REQUESTS THAT POST IMMEDIATELY TRANSMIT
FOLLOWING INFO TO EITHER PROSECUTORS CHE OR SUK OR TO
JUDGE PARK OF SEOUL DISTRICT CRIMINAL COURT:

(A) ON 12/17/76 U.S. MAGISTRATE ASSIGNED BY CALIFORNIA
DISTRICT COURT TO OVERSEE EXECUTION OF KOREAN COURT'S RE-
QUEST FOR JUDICIAL ASSISTANCE RULED THAT REQUEST WOULD NOT
BE EXECUTED, PRIMARILY BECAUSE "THE CRIMINAL PROCEEDING
WHICH GAVE RISE TO THE . . . (REQUEST FOR JUDICIAL ASSIS-
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TANCE) IS CONCLUDED AT THE TRIAL LEVEL, THE MOVANT (SHIN)
HAS BEEN CONVICTED, AND THERE IS NO LONGER NEED FOR THE
DOCUMENTS OR OTHER DATA OR EVIDENCE."

(B) DECISION OF U.S. MAGISTRATE IS NOT FINAL AND DEPARTMENT
OF JUSTICE (DOJ) IS OF OPINION THAT DECISION IS IN ERROR,

THEREFORE, DOJ IS APPEALING MAGISTRATE'S DECISION TO U.S. DISTRICT COURT.

(C) DOJ HAS RECEIVED UNSOLICITED, UNCONFIRMED - RPT
UNSOLICITED, UNCONFIRMED - INFO THAT SHIN HAS OVER PAST
SEVERAL YEARS DEPOSITED IN BANK OF TOKYO TOTAL MONEY IN
EXCESS U.S. DOLS 3 MILLION.

(D) FACT THAT KOREAN REQUEST SET TO EXPIRE ON 12/31/76
BY ITS OWN TERMS MAY PREVENT EFFECTIVE DOJ APPEAL OF
MAGISTRATE'S RULING UNLESS SEOUL DISTRICT CRIMINAL COURT
EXTENDS TIME LIMIT OR NEW REQUEST IS ISSUED BY KOREAN
APPELLATE COURT BEFORE WHICH CASE PRESENTLY PENDING.

3. IN VIEW OF FOREGOING, REQUEST POST OBTAIN SOONEST
KOREAN PROSECUTOR'S RESPONSES TO FOLLOWING QUESTIONS:

(A) IS PROSECUTOR'S OFFICE NOW ABLE TO FURNISH ANSWERS TO
QUESTIONS POSED REFTEL (B)? (SEE PARA 4 REFTEL (C)).

(B) DOES KOREAN COURT DESIRE EXTEND DEADLINE BEYOND

TERMINATION DATE OF 12/31/76? IF SO, JUDGE PARK SHOULD
IMMEDIATELY ISSUE LETTER ADDRESSED TO "APPROPRIATE
JUDICIAL AUTHORITY IN THE UNITED STATES". LETTER SHOULD
EXPRESSLY STATE THAT REQUESTED EVIDENCE STILL DESIRED FOR
USE IN CONNECTION WITH A JUDICIAL PROCEEDING PENDING IN
KOREAN AND SHOULD SPECIFY FOR HOW LONG ORIGINAL REQUEST
EXTENDED. JUDGE'S SIGNATURE SHOULD BE AUTHENTICATED BY
POST PER 7 FAM 834.2-1 AND POUCHED TO DEPT ASAP. TO
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EXPEDITE ACTION, REQUEST POST CABLE CONTENTS JUDGE'S
LETTER VERBATIM TO DEPT AS SOON AS RECEIVED.

(C) BEST WAY TO INSURE PROMPT EXECUTION OF KOREAN REQUEST
WOULD, OF COURSE, BE FOR KOREAN APPELLATE COURT BEFORE
WHICH SHIN CASE PRESENTLY ON APPEAL TO EITHER ISSUE A NEW,
INDEPENDENT REQUEST IN ITS OWN NAME, OR ALTERNATIVELY,
TO ADOPT SEOUL DISTRICT COURT'S PRIOR REQUEST AND SET NEW
DEADLINE. METHOD OF TRANSMITTAL SAME AS DESCRIBED IN
PARA. 3(B), SUPRA.

4. DEPT WOULD BE GRATEFUL IF POST COULD FURNISH SOONEST
PRELIMINARY REPORT CONCERNING SEOUL DISTRICT PROSECUTOR'S
REACTION AND VIEWS RE FOREGOING SO THAT DOJ CAN PLAN
COURT STRATEGY.

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5. PLEASE SLUG REPLY FOR DEPT OF JUSTICE, ATTN: BRUNO

RISTAU, CHIEF, FOREIGN LITIGATION UNIT.

6. DOJ AND DEPT APPRECIATE POST'S CONTINUED ASSISTANCE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 23 DEC 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE310254
Document Source: CORE
Document Unique ID: 00
Drafter: JS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760471-0510
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761216/aaaaangu.tel
Line Count: 119
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN SCSE
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 77 SEOUL 8816, 77 STATE 265132, 77 SEOUL 8882
Review Action: RELEASED, APPROVED
Review Authority: vogelfj
Review Comment: n/a
Review Content Flags:
Review Date: 15 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <15 JUN 2004 by chengls>; APPROVED <20 DEC 2004 by vogelfj>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: YOUNG SOOL SHIN: CASE NO. 75 KO DAN 6332, SEOUL DISTRICT CRIMINAL CT.
TAGS: CGEN
To: SEOUL
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006